

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2006

SPONSOR: Education Committee and Senator Clary

SUBJECT: Education Practices Commission; Educator Certification

DATE: April 10, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dormady</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Golden</u>	<u>Newman</u>	<u>AED</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Favorable/CS</u>
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

CS/CS/SB 2006 makes certain changes to procedures for complaints, disciplinary actions, and penalties relating to certified educators and applicants for certification. Changes in the bill generally streamline or clarify administrative and disciplinary procedures applicable to certified educators.

This bill creates a new section 1012.56 and amends sections 1012.79, 1012.795, 1012.796, 1012.798, 943.0585, and 943.059, Florida Statutes.

The bill will take effect upon becoming law.

## II. Present Situation:

Florida statutes provide specific eligibility requirements for a certificate (license) to teach in Florida's public schools. The statutes also provides for suspension or revocation of a certificate if the holder violates certain conditions. The Department of Education is required to investigate complaints against certified educators and if necessary to investigating applicants seeking certification prior to issuing or denying a certificate. According to the Department of Education, in 2002 more than 500 investigations resulted in prosecution of educators before the Professional Practices Commission or denial of certification to applicants. The Education Practices Commission is required to conduct due process hearings and issue rulings for cases referred to it. The Commission is authorized to assign disciplinary action including assess fines and suspending certificates denying the person the privilege of teaching during the period of suspension.

### III. Effect of Proposed Changes:

CS/CS/SB 2006 makes changes to sections of the Florida Statutes regarding the Education Practices Commission and educator discipline as follows:

S. 1012.56. The bill changes an existing requirement of certification that applicants must submit a written statement attesting to certain facts. The new requirement set forth in the bill is that an applicant must file an affidavit swearing to uphold laws and swearing that the information contained in the application for certification is true and complete. The bill also stipulates the form for the affidavit.

S. 1012.79. The bill reduces the number of Commission members required to serve on disciplinary hearing panels from seven to five. The Commission exercises final agency action in educator certificate discipline matters for teachers or administrators through these panels. This change has been proposed to reduce costs and the current backlog of these hearings.

S. 1012.795. Section 1012.795, F.S., addresses the Education Practices Commission and its authority to discipline educators. SB 2006 makes the following changes to this section:

- Increases the maximum suspension period of an educator's certificate to five years from three years and provides that educator suspensions apply to employment in any capacity that requires direct contact with students.
- Provides that the revocation of an educator certificate, either permanently or with the possibility of reinstatement, denies a person the privilege of employment in a public school in any capacity that requires direct contact with students.
- Provides additional grounds for discipline of educators, including:
  - attempts to obtain an educator certificate by fraudulent means
  - having had a certificate sanctioned in another state
- Clarifies that, when an individual violates any provision of a final order of the Commission, an order to show cause will be issued by the clerk of the Commission upon the request of the DOE. Clarifies that the Commission has the power to fashion further penalties after considering the show cause order.
- Deletes several statutorily-listed conditions for mandatory revocation of an educator's certificate set forth in the statute and provides instead that mandatory revocation shall occur if the individual has been the subject of sanctions by the Commission on two previous occasions.

Section 1012.796. Section 1012.796, F.S., addresses complaints against teachers and administrators and related procedures and penalties. SB 2006 makes the following changes to this section:

- Adds a requirement that all law enforcement agencies, state attorneys, social service agencies, district school boards, and the Division of Administrative Hearings must fully cooperate with and upon request provide unredacted documents to the DOE to further investigations and prosecutions conducted as authorized by the section. These documents may not then be redisclosed except as permitted by law.

- Provides that educators who are placed on probation by the Commission must (1) notify the Bureau of Educator Standards upon their employment or termination of employment in the state in any position that requires an educator's certificate; (2) have performance reports submitted to the Bureau of Educator Standards; (3) pay the administrative costs of monitoring probation as assessed; (4) not violate any law, rule or policy; (5) satisfactorily perform all assigned duties; and (6) bear all costs of complying with the terms of a final order of the Commission.
- Adds as a possible penalty that the educator may be referred to the Recovery Network Program.
- Clarifies that violations of a final order will result in an order to show cause when such order is requested by the DOE.

Section 1012.798. Section 1012.798, F.S., addresses the Recovery Network Program for educators. The bill makes the following changes to this section:

- States that persons who have applied for an educator certificate, in addition to those who already hold a certificate, are eligible for participation in the Recovery Network Program.
- Provides that individuals may enter the program voluntarily or may be directed to participate in the program through a deferred prosecution agreement with the Commissioner of Education or a final order of the Commission.
- Removes limitation that persons who had previously been under investigation by the DOE may not be enrolled in treatment through the Recovery Network Program.
- Provides that determinations of ineligibility to participate in the program will be made by the program administrator or his or her designee, rather than the Commissioner of Education.
- Provides that, if treatment is a condition of a final order with the Commission, the program administrator's determination of ineligibility constitutes a finding that the person failed to comply with the final order. Previously, the Commissioner's determination of ineligibility constituted probable cause that the person failed to comply with the order, not a definitive finding. The bill states that the clerk of the Commission shall issue to the educator an order to show cause upon request of the DOE or that the Commissioner may issue an administrative complaint in such a situation.
- Makes technical changes.

Section 943.0585. Section 943.0585, F.S., addresses court-ordered expunctions of criminal history records. This section permits persons who have had criminal history records expunged to lawfully deny or fail to acknowledge the arrests covered by the expunged record, but excludes certain categories of persons from being able to do this. The bill revises the section to provide that such denials will not be permitted by persons seeking to be employed or licensed by (1) the DOE; (2) any university laboratory school; (3) any charter school; or (4) any private or parochial school.

Section 943.059. Section 943.059, F.S., addresses court-ordered sealing of criminal history records. The section permits a person who has had a criminal history record sealed to lawfully deny or fail to acknowledge the arrests covered by the sealed record, with certain exceptions. SB 2006 revises the section to provide that such denials will not be permitted by any person seeking

to be employed or licensed by (1) the DOE; (2) any university laboratory school; (3) any charter school; or (4) any private or parochial school.

The bill also creates a new section of the Florida Statutes, s. 1012.561, which:

- Provides that a certified educator or applicant for a certificate who is employed by a district school board must notify the employer within 10 days of change of address and the district school board shall notify the Department of Education within 20 days after it receives such notification.
- Permits all official communication to educators or applicants from the DOE, the Education Practices Commission, or the Recovery Network for Educators to be sent by regular mail, rather than certified mail, newspaper publication or process servers. The DOE anticipates that this change will save Professional Practices and the Education Practices Commission approximately \$20,000 and \$10,000 per year, respectively, in certified mail fees. This change will likely reduce to some degree, however, the certainty of delivery and receipt of such communications.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

The bill streamlines disciplinary procedures to increase efficiency and cost savings; a reduction of procedures, however, may sometimes foster claims of violations of procedural due process as required by case law developed under the Fourteenth Amendment to the U.S. Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The proposed changes may offer certain cost savings in the administration of disciplinary procedures. Data are not available to estimate the total cost savings that may be effected by this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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